IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.MC.No. 2616 of 2007()

CC.836/2003 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER: PETITIONER/IST ACCUSED

JOHNEY,S/O.KOSHY SAMUEL,JUSTIN VILLA,
KOMALLOOR VILLAGE,CHUNAKKARA TALUK,
MAVELIKKARA.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS: STATE AND THE INVESTIGATING OFFICER

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1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

2. THE C.I. OF POLICE,
CENTRAL POLICE STATION,ERNAKULAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2616 of 2007

Dated this the 17th day of August 2007

O R D E R

The petitioner is the first accused in a crime registered under Section 420 I.P.C. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioner had been released on bail at the stage of investigation. But subsequently he has not appeared before the learned Magistrate. According to the petitioner, he was not duly served and that is why he could not earlier appear before the learned Magistrate. The petitioner is now willing to appear before the learned Magistrate; but a warrant of arrest issued by the learned Magistrate against the petitioner is chasing him. The petitioner apprehends that he may be arrested before he appears before the learned Magistrate. He further apprehends that when he surrenders and applies for bail, the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. The petitioner has a further request that his claim for discharge may be directed to be considered expeditiously by the learned

Magistrate.

2. Having considered all the relevant inputs, I am satisfied that appropriate directions can be issued in the matter and this petition can be allowed in part.

3. In the result, this petition is allowed in part. Following directions are issued:

i) The petitioner shall surrender before the learned Magistrate at 11 a.m on 22/8/2007. Till then, the warrant of arrest issued against him shall not be executed. The petitioner may apply for bail and the learned Magistrate must proceed to pass appropriate orders on such application for bail on merits, in accordance with law and expeditiously - on the date of surrender itself. The petitioner must give sufficient prior notice to the prosecutor in charge of the case. He can give such notice before he surrenders before the learned Magistrate.

ii) The learned Magistrate shall consider the plea of discharge which the petitioner wants to raise at the stage of Section 239/240 Cr.P.C, as expeditiously as possible, at any rate, within a period of one month from the date of his appearance.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007